

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

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| SARAH MAIN, INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED | § § § § § § § § § § § | CIVIL ACTION NO. 2:21-CV-00052 |
| VS. | | JURY DEMANDED |
| TIM ABLES TRUCKING COMPANY, LLC | | FILED PURSUANT TO 29 U.S.C. §216(b) |

PLAINTIFF’S ORIGINAL COLLECTIVE ACTION COMPLAINT

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

INTRODUCTION

1. Pursuant to 29 USC § 207 (“FLSA”), the named plaintiff alleges violations of her statutory employment right to receive overtime pay from Defendant, Tim Ables Trucking Company, LLC (Hereinafter “Tim Ables Trucking”) as a result of Tim Ables Trucking’s failure to pay Plaintiff and all those similarly situated employees overtime wages. Pursuant to 29 USC §216 (b), the named plaintiff also seeks to represent all other similarly situated employees, as described herein, who have not been paid overtime and to have this action certified as a collective action. For herself and all those similarly situated, the named employee seeks unpaid overtime, liquidated damages, all available equitable relief, attorney fees, and litigation expenses/costs, including expert witness fees and expenses.

PARTIES

2. Plaintiff, Sarah Main, is a resident of Kilgore, Gregg County, Texas. The Plaintiff brings this action individually on her own behalf and, pursuant to §216(b) of the Fair Labor Standards Act, as a representative of a class of individuals who are similarly situated and who have

suffered the same or similar damages. Plaintiff's consent to join this action is attached hereto as Exhibit A.

3. Defendant, Tim Ables Trucking Company, LLC ("Tim Ables Trucking") is a Texas limited liability company and may be served through its registered agent for services of process: Ross A. Skolnick, 1504 Colony Circle, Longview, Texas 75604.

JURISDICTION AND VENUE

4. This court has jurisdiction by virtue of 28 USC §§ 1331, and 1391. The Defendant's Kilgore, Texas location is located within the Eastern District of Texas and the Court has subject matter jurisdiction and personal jurisdiction to hear the case. *See* 29 U.S.C. 201, *et seq.*

FACTS

5. Plaintiff was employed at Tim Ables Trucking as a truck dispatcher; however, the work she did for Tim Ables Trucking was not exempt as defined under the FLSA. The evidence at trial will show that Plaintiff was not paid overtime wages at one and one-half times her regular hourly rate for all hours worked in excess of 40 hours in every work week.

6. Plaintiff believes and, therefore, allege that the failure of Tim Ables Trucking's to pay Plaintiff and all those similarly situated for overtime pay was intentional.

CLAIMS

7. The Fair Labor Standards Act (29 U.S.C. § 201, *et seq.*) is commonly referred to as "FLSA." Among other things, the FLSA statutes and the regulations promulgated there under govern the activities of the pay practices of employers involved in commerce. Plaintiff alleges that the failure to pay Plaintiff and all those similarly situated for all hours worked is a direct violation of the FLSA statutes and regulations. Additionally, Plaintiff alleges that the failure to

pay Plaintiff and all those similarly situated one and one-half her regular rate for all hours worked in excess of 40 hours in a work week is a direct violation of the FLSA statutes and regulations. Plaintiff and all those similarly situated are entitled to receive the unpaid wages due her, liquidated damages, costs, and attorneys' fees.

COLLECTIVE ACTION

8. Pursuant to 29 U.S.C. § 216 (b), Plaintiff Sarah Main brings this action in her individual capacity and as a collective action. As alleged in detail elsewhere herein, Sarah Main seeks this court's appointment and/or designation as representative of a class of similarly situated employees of Tim Ables Trucking who were not paid for all overtime hours worked as described herein. On information and belief, there are numerous safety supervisors who were not paid for all overtime hours worked for Tim Ables Trucking as described herein. The questions of law and fact are common to the class of similarly situated employees. The failure to pay its employees for the overtime hours worked was common to all of Tim Ables Trucking dispatchers.

9. Sarah Main specifically requests that she be permitted to serve as a representative of the affected class, and this action should be certified as a collective action pursuant to 29 U.S.C. § 216(b).

JURY DEMAND

10. Plaintiff, individually and as a representative of the class, requests a jury trial.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that the class be certified and that the Plaintiff and each member of the class recover from Tim Ables Trucking the following:

1. The unpaid wages due to Plaintiffs;
2. Liquidated damages authorized by the applicable statutes;
3. Unpaid wages due to all class members;
4. Liquidated damages to all class members;

5. Court costs;
6. Attorneys' fees; and
7. Such other and further relief as the Court deems just.

Respectfully submitted,

/s/ William S. Hommel, Jr.

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MEMBERS